

Application No. 09/903,215
Amendment dated December 27, 2005
Reply to Office Action of July 25, 2005

REMARKS/ARGUMENTS

Responsive to the Official Action mailed July 25, 2005, applicants have further amended the claims of their application in an earnest effort to place this case in condition for allowance. Specifically, independent claims 12 and 19 have been amended. Reconsideration is respectfully requested.

The Examiner's withdrawal of the rejection based upon the commonly-owned Black et al. reference is gratefully acknowledged.

In rejecting the pending claims under 35 U.S.C. §103, the Examiner continues to rely upon U.S. Patent No. 6,022,818, to Welchel et al., with further reliance upon U.S. Patent No. 5,674,587, to James et al. However, it is respectfully maintained that even when combined, these references clearly fail to teach or suggest applicants' novel method of making a multi-component nonwoven fabric, and accordingly, the Examiner's rejection is respectfully traversed.

In the Action, the Examiner acknowledges the deficiencies in the teachings of the principle Welchel reference stating that Welchel:

- (1) fails to teach the precursor web as positioned on a three-dimensional image transfer device having a foraminous forming surface defining an array of surface depressions and hydroentangling the web so that the web is imaged and patterned on the image transfer device;
- (2) fails to teach that the fabric as a result will have an array of upstanding projections extending above a network of liquid-accepting channels corresponding to the array of surface depressions formed by a foraminous forming surface;
- (3) fails to teach that the nonwoven fabric is dried at an elevated temperature to stabilize and enhance the retention of the three-dimensional image.

While the Examiner notes that the Welchel reference contemplates the inclusion of bi-component fibers, the Examiner acknowledges that this teaching in Welchel relates to bonding

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the top sheet to the bottom sheet, and thus has *no bearing* on the provision of heat-fusible fibers for stabilizing a three-dimensional image.

Applicants respectfully refer to M.P.E.P. Section 2143.03, which specifically requires that to establish *prime facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art, and that "all words in a claim must be considered in judging the patentability of that claim against the prior art". Given the acknowledged deficiencies in the principal Welchel et al. reference, applicants respectfully submit that these deficiencies are not overcome by the secondary James et al. patent, and as such, the Examiner's rejection of the pending claims under 35 U.S.C. §103 should be withdrawn.

Applicants are familiar with the James et al. reference, in that this reference discloses an apparatus of the type which can be used for practicing the present invention, that is, an apparatus including a three-dimensional imaging surface upon which hydroentanglement can be effected for imparting an image to an associated nonwoven fabric. However, this reference fails to overcome the deficiencies in the teachings of the principal Welchel et al. reference.

Notably, while James et al. includes disclosures of a "support member" for effecting imaging of an associated nonwoven fabric, applicants do not understand this reference to teach or suggest formation of a multi-component fabric, including the provision of a second fibrous layer comprising heat-fusible fiber, the activation of which stabilizes the fabric and enhances retention of the three-dimensional image. It is acknowledged by the Examiner, that the principal Welchel et al. reference clearly fails to teach or suggest this claimed aspect of applicants' invention. In view of the absence of such teachings in the secondary James et al. patent, it is

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respectfully submitted that the rejection under 35 U.S.C. §103 of applicants' pending claims should be withdrawn.

Moreover, it is not apparent to applicants that one skilled in the art consider James et al. to teach or suggest applicants' specifically recited process. At column 5, lines 30 et seq., James et al. states:

Nonwoven fabric 10 comprises a plurality of generally staple length fibers which may be, for example, cotton, rayon or polyester, or blends thereof.

The reference includes extensive disclosure of the imaging apparatus illustrated in James et al., then concludes with Examples 1 and 2. Significantly, Example 2, which concerns use of the topographical support member made in accordance with Example 1, states:

A fibrous web consisting *entirely of staple length cotton fibers* and weighing 1.2 ounces per square yard was made by combining a 0.2 ounce per square yard 100% cotton web made by a conventional carding process and a 0.6 ounce per square yard 100% cotton web made by convention air laying process.

Given these specific teachings in the James et al. reference, those skilled in the art would not consider this reference to teach or suggest the use of fusible fibers to stabilize a fabric, and enhance a three-dimensional image, since *cotton fibers are not heat-fusible*.

Thus, both the principal and secondary references relied upon by the Examiner fail to teach this important aspect of applicants' novel process, whereby a stabilized fabric is formed with an enhanced three-dimensional image, which image is specifically configured for enhanced user comfort and fluid management.

Of course, applicants must respectfully note that neither of the cited references teach or suggest the provision of an array of upstanding projections for minimizing contact with a user,

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and a corresponding array of surface depressions for facilitating fluid management. As specifically required by M.P.E.P. Section 2143.01, "the prior art must suggest the desirability of the claimed invention", and when neither of the cited references teach or suggest this specifically claimed aspect of applicants' invention, it is respectfully submitted that a rejection under 35 U.S.C. §103 is improper.

In the Action, the Examiner has stated that it would be obvious to create a patterned image in the surface of the composite of Welchel et al. with the image transfer device of James et al. "motivated by the desire to create a nonwoven web having an increased dry feel and improved softness suitable for absorbent articles". Applicants are unclear what aspect of *the references* provides such motivation, in accordance with the requirements of the M.P.E.P. Similarly, the Examiner's statement that it would be "obvious . . . to stabilize the nonwoven as suggested by James" does not appear to be supported by the teachings of the references themselves. Again, it is respectfully submitted this is contrary to the requirements of the M.P.E.P.

In the Action, the Examiner continues to rely upon *In Re Boesch*, but as previously noted, the Court in that case specifically stated that a case of obviousness "may be rebutted where the results of optimizing a variable, which was known to be result-effective [are] unexpectedly good". In this context, applicants must respectfully submit that the cited references *do not* provide the required "motivation to optimize" the denier, basis weight, and fabric weight to thickness ratio, since the references do not teach applicants' claimed method.

In conclusion, applicants respectfully request reconsideration of their presently pending claims. The novelty of the pending claims has been acknowledged by the Examiner, as have

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the deficiencies in the teachings of the principle Welchel et al. reference. Careful study of the secondary James et al. reference shows that it clearly fails to overcome the deficiencies in the principal Welchel et al. reference. Applicants must respectfully submit that to suggest that "optimization" and "motivation" would be apparent to those skilled in the art, *when the references fail to teach all of the elements of the pending claims*, is simply inconsistent with the mandates of the M.P.E.P. in formulating rejections under 35 U.S.C. §103. Accordingly, it is respectfully submitted that the rejection of the presently pending claims should be withdrawn.

In view of the foregoing, formal allowance of claims 12-21, and 24, is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

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